

JOHN A. SANCHEZ Lt. Governor

# NEW MEXICO ENVIRONMENT DEPARTMENT



Deputy Secretary

Certified Mail - Return Receipt Requested

June 23, 2017

Andrew Scott, Secretary Ojo Caliente Holdings, Inc. 50 Los Baños Drive Ojo Caliente, New Mexico 87549

RE: Ojo Caliente Holdings, Inc. / Ojo Caliente Mineral Springs Resort & Spa, Unpermitted Construction Stormwater, NPDES Compliance Evaluation Inspection, Taos County, NMU001715, May 25, 2017

Dear Mr. Scott:

Enclosed please find a copy of the report for the referenced inspection that the New Mexico Environment Department (NMED) conducted at your facility on behalf of the U.S. Environmental Protection Agency (USEPA). This inspection report will be sent to the USEPA in Dallas for their review. These inspections are used by USEPA to determine compliance with the National Pollutant Discharge Elimination System (NPDES) permitting program in accordance with requirements of the federal Clean Water Act.

Further explanations and problems noted during this inspection are discussed on the completed form and report. You are encouraged to review the inspection report, required to correct any problems noted during the inspection, and advised to modify your operational and/or administrative procedures, as appropriate. If you have comments on or concerns with the basis for the findings in the NMED inspection report, please contact us (see the address below) in writing within 30 days from the date of this letter. Further, you are encouraged to notify in writing both the USEPA and NMED regarding modifications and compliance schedules at the addresses below:

David Long NPDES Enforcement Coordinator Environmental Protection Agency, Region 6 NPDES Enforcement Branch (6EN-WM) 1445 Ross Avenue, Suite 1200 Dallas, Texas 75202-2733 Sarah Holcomb Program Manager New Mexico Environment Department Surface Water Quality Bureau (N2050) Point Source Regulation Section P.O. Box 5469 Santa Fe, New Mexico 87502

If you have any questions about this inspection report, please contact Erin Trujillo at 505-827-0418 or at <a href="mailto:erin.trujillo@state.nm.us">erin.trujillo@state.nm.us</a>.

Sincerely,

/s/Sarah Holcomb

Sarah Holcomb Program Manager Point Source Regulation Section Surface Water Quality Bureau

# Ojo Caliente Holdings, Inc., Ojo Caliente Mineral Springs Resort & Spa, NMU001715 June 23, 2017 Page 2 of 2

cc: Carol Peters-Wagnon, USEPA (6EN-WM) by e-mail David Long, USEPA (6EN-WM) by e-mail David Esparza, USEPA (6EN-WM) by e-mail Amy Andrews, USEPA (6EN-WM) by e-mail Robert Houston, USEPA (6EN) Darlene Whitten-Hill, USEPA (6EN) by e-mail Robert Italiano, NMED District II by e-mail



Form Approved OMB No. 2040-0003 Approval Expires 7-31-85

NPDES Compliance Inspection Report								
			Section A: Nation	nal Da	ata Sy	stem Coding		
1	Transaction Code							
			Section I	B: Fac	rility l	Data		
<i>РОТ</i> Ојо	W name and NPDES permit number)	sort	dustrial users discharging to POTW, also & Spa, 50 Los Baños Drive, O	includ		Entry Time /Date ~1125 hours / 05/25/2017	,	Permit Effective Date 02/16/2012 (2012 CGP) 02/16/2017 (2017 CGP)
						Exit Time/Date ~1345 hours / 05/25/2017		Permit Expiration Date 02/16/2017 (2012 CGP) 02/16/2022 (2017 CGP)
Nam And Ojo	Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)  -See below  Name, Address of Responsible Official/Title/Phone and Fax Number  Andrew (Andy) Scott, Ojo Caliente Holdings, Inc.; 50 Los Baños Drive, Ojo Caliente, New Mexico 87549 / Secretary / Manager / 505-583-2233, 505-490-9434, and fax 505-583-9198  Other Facility Data  Entrance  Latitude 36.305150°  Longitude -106.050851°  SIC 1629 & 1442							
			Section C: Areas Ev (S = Satisfactory, M = Marginal,			U .		
U N M	Permit Records/Reports Facility Site Review Effluent/Receiving Waters	N N N	Flow Measurement Self-Monitoring Program Compliance Schedules Laboratory	N N N U	Slue Pre	erations & Maintenance  dge Handling/Disposal  treatment  rm Water	N N N	CSO/SSO Pollution Prevention Multimedia Other:
			Section D: Summary of Findings/Com	ments	s (Att	ach additional sheets if necessary)		
See attached further explanations, imagery and photo log.								
	Name(s) and Signature(s) of Inspector(s)  Erin S. Trujillo /s/Erin S. Trujillo  Agency/Office/Telephone/Fax  NMED/SWQB/505-827-0418/505-827-0160  Date 06/23/2017							
	ignature of Management QA Reviewer Agency/Office/Phone and Fax Numbers Date NMED/SWQB/505-827-2798/505-827-0160 06/23/2017							

# Ojo Caliente Holdings, Inc. / Ojo Caliente Mineral Springs Resort & Spa NPDES Tracking No. NMU001715 Compliance Evaluation Inspection - Construction Storm Water May 25, 2017

# **Further Explanations**

#### Introduction

On May 25, 2017, Compliance Evaluation Inspection (CEI) was conducted by Erin S. Trujillo of the New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB), Point Source Regulation Section (PSRS) at the Ojo Caliente Mineral Springs Resort & Spa in Taos County, New Mexico following an public inquiry on the regulatory compliance of construction activities in and near the Rio Ojo Caliente. The purpose of this inspection was to document the facility's status regarding the federal Clean Water Act (CWA) Section 402 and National Pollutant Discharge Elimination Program (NPDES) storm water regulations at 40 Code of Federal Regulations Part 122.26 and Construction General Permit (CGP). More information on USEPA's CGP is provided in Appendix A.

Stormwater discharges are to a constructed on-site pond and the classified Rio Ojo Caliente (Segment 20.6.4.116 of the State of New Mexico Standards for Interstate and Intrastate Surface Waters, 20.6.4 New Mexico Administrative Code (NMAC)) thence to the Rio Chama, thence to the Rio Grande. This segment includes the designated uses of coldwater aquatic life, irrigation, livestock watering, secondary contact, warmwater aquatic life, and wildlife habitat.

On the day of this CEI, Ms. Trujillo was accompanied by Ms. Shelly Barnes, Regulatory Project Manager, U.S. Army Corps of Engineers, Albuquerque District and Mr. Alan Klatt, NMED Watershed Protection Section conducting a site visit to determine regulatory compliance under the federal Clean Water Act (CWA) Section 404 Program. Upon arrival at the facility office's at approximately 1125 hours on May 25, 2017, the on-site manager was contacted. Upon Mr. Andy Scott, Secretary and Manager, Ojo Caliente Holdings, Inc. arrival, Ms. Trujillo made introductions, presented credentials and explained the purpose of this NPDES inspection. A tour of construction and construction support activities was conducted with Mr. Scott. Preliminary findings were discussed with Mr. Scott at the end of the tour. The inspector left the site at approximately 1345 hours on the day of the inspection. Ms. Trujillo obtained additional information from Mr. Scott by telephone on June 20, 2017.

This report is based on a review of the USEPA online electronic notice of intent (eNOI) databases; review of files maintained by NMED; records provided by United States Army Corp of Engineers (USACE) Albuquerque District Office; readily available on-line aerial photographs and mapping; and on-site observation by NMED personnel.

# Previous NPDES CEI / Background

Following a previous complaint of construction activities along the Rio Ojo Caliente, an NPDES CEI was conducted by Ms. Trujillo on February 17, 2011 for an unpermitted approximately 1.4+ acre disturbed construction site for an approximately one (1) acre pond and path/road along the bank and in the floodplain of the Rio Ojo Caliente. A copy of the 2011 NPDES CEI report is available at: https://www.env.nm.gov/swqb/documents/swqbdocs/NPDES/Inspections/NMU001715-20110217.pdf.

Ojo Caliente Holdings, Inc., a Delaware Foreign corporation registered in the State of New Mexico, submitted a Notice of Intent (NOI) to obtain permit coverage under the 2008 CGP on March 19, 2011 (see copy of NOIs for expired Permit Tracking No. NMR10HB96 for 1.4 acres and expired incomplete Permit Tracking No. NMR10HB50 for -1 acres in Appendix B). In a letter dated March 14, 2011, State of New Mexico, Office of the State Engineer approved a water rights permit adding to the 1.07-acre pond for a total of 2.0 acres (Source: USACE Albuquerque District Office files). The 2008 CGP expired on February 15, 2012.

#### **On-Site Construction and Support Activity Description**

Readily available on-line imagery showing construction and construction support activity disturbance are provided in Figures 1 thru 4 from Google Earth images dated 6/16/2011, 9/28/2013, 10/03/2013, and 11/01/2015. Photos on the day of this CEI are provided below.

On the day of this CEI, the improved path/road in the floodplain had been constructed. The improved path/road was not extended north into and through Tract 3 identified by the on-site owner/operator during the 2011 CEI on "Property of the Ojo Caliente Mineral Springs Co within the Ojo Caliente Grant, Taos County, NM" survey plat dated December 1953. The excavation of a 2.0 acre pond had been completed according to Mr. Scott approximately 1 to 2 weeks prior to this CEI. A pipe lateral for the pond was buried. Overburden from the pond excavation was stockpiled along a ditch (drainageway) for approximately 625 feet. The ditch had an outlet at Rio Ojo Caliente.

Google Earth measuring tools were used to measure the overburden area which was approximately 625 feet long and less than 25 feet wide in the November 1, 2015 image. On the day of this CEI, the width of the overburden stockpile ranged from approximately 25 to 75.

Sand, gravel and cobble associated with the pond excavation had been stockpiled and sorted at a disturbed (or re-disturbed) area south of the pond. Sorting equipment at the support area was not being operated during the tour. Based on information from Mr. Scott, the sand, gravel and cobble stockpile and sorting area was directly associated with the disturbance from the pond excavation construction site and improved path/road construction. Mr. Scott described that the support area was not a commercial operation-materials were not for sale or used offsite. However, the remaining material stockpiles or material storage area has and may be used for other projects at the facility or property. For example, material from the area had been used to control flooding along the Rio Ojo Caliente river bank.

## **Findings**

- Ojo Caliente Holdings, Inc. prepared, but did not update the stormwater pollution prevention plan (SWPPP) according to Mr. Scott. Mr. Scott described that Ojo Caliente Holdings, Inc. also did not conduct inspections as required by the 2008 CGP.
- Ojo Caliente Holdings, Inc. (operator/owner/developer) did not obtain coverage under a current NPDES permit for stormwater discharges associated with a construction activity greater than one acre and associated construction support activity. Construction support activity included equipment staging and materials storage (stockpile) areas, excavated material disposal areas, and/or borrow areas.
- Ojo Caliente Holdings, Inc. did not update a SWPPP and did not submit a NOI by deadlines in the 2012 CGP or the 2017 CGP.
- There were no observed structural erosion or sediment controls for construction and construction support activity areas. Overburden and material stockpiles in the construction support areas with finer grain size sediments were not stabilized and adjacent to a drainageway with an outlet at Rio Oio Caliente and high water flows in the floodplain of Rio Oio Caliente.

### **Comments**

Mr. Scott described that he was unaware of the need for updating the SWPPP and submitting an NOI to obtain renewed permit coverage under subsequent CGPs for increased and/or continued construction activity. Mr. Scott described that he believed that permit coverage was no longer required following site visits that were conducted by USACE and NMED Watershed Protection Section staff. Inspections conducted by USACE and NMED Watershed Protection Section were under the Clean Water Act Section 404 (discharge of dredge or fill) program, not Section 402 NPDES (discharge of stormwater from

construction activity). NMED SWQB PSRS or USEPA Region 6 stormwater permit staff may be contacted to discuss permit requirements prior to construction, including if the use of the overburden and material stockpiles changes.

Figure 1: Call out is of disturbed area associated with excavated pond (Google Earth Imagery dated 6/16/2011)



Figure 2: Call outs are of disturbed area associated with excavated pond, lateral and overburden stockpile (Google Earth Imagery dated 9/28/2013)

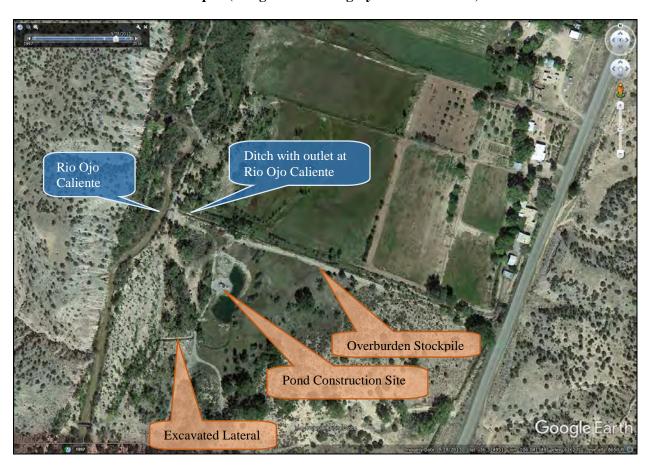
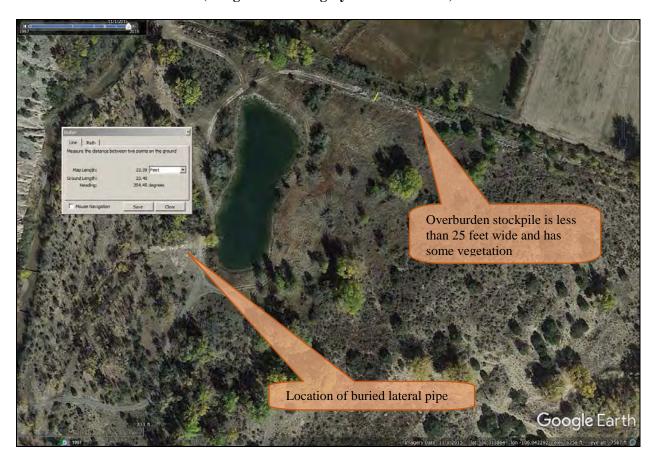


Figure 3: Call out is of disturbed construction support area associated with excavated pond (Google Earth Imagery dated 10/3/2013)



Figure 4: Status of excavated pond and overburden stockpile (Google Earth Imagery dated 11/1/2015)



NMED/SWQB Official Photograph Log Photo # 1			
Photographer: Erin Trujillo Date: 05/25/2017 Time: 1157 hours			
City/County: North of Ojo Caliente / Taos County  State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Looking north, arrow points to edge of cobble and coarse size gravel stockpile near highwater flow in floodplain of Rio Ojo Caliente. Sediment deposits in area appear to be from recent flooding.			



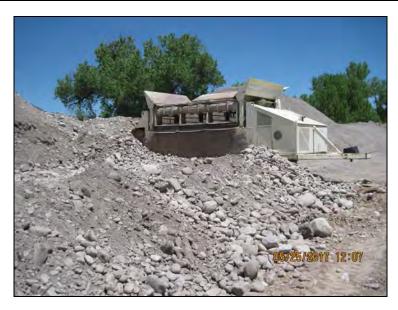
NMED/SWQB Official Photograph Log Photo # 2			
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1200 hours	
City/County: North of Ojo Caliente / Taos County  State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Cobble and coarse size gravel stockpile shown in previous photo.			



NMED/SWQB Official Photograph Log Photo # 3			
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1207 hours	
City/County: North of Ojo Caliente / Taos County  State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Example of material stockpile and grizzly (sorting equipment) at support area.			



NMED/SWQB Official Photograph Log Photo # 4			
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1207 hours	
City/County: North of Ojo Caliente / Taos County  State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Sorting equipment at sand, gravel and cobble stockpile area at support area.			



NMED/SWQB Official Photograph Log Photo # 5			
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1209 hours	
City/County: North of Ojo Caliente / Taos County		State: New Mexico	
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Coarse and finer grained size material stockpile at support area.			



NMED/SWQB Official Photograph Log Photo # 6			
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1209 hours	
City/County: North of Ojo Caliente / Taos County  State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Standing water was in floodplain of Rio Ojo Caliente directly below and north of stockpile shown above.			



NMED/SWQB Official Photograph Log Photo # 7			
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1223 hours	
City/County: North of Ojo Caliente / Taos County  State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Looking north-northeast, constructed excavated pond in north portion of property. Disturbed area in background is stockpile of the overburden material from the excavation.			



NMED/SWQB Official Photograph Log Photo # 8				
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1234 hours		
City/County: North of Ojo Caliente / Ta	State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa				
Subject: A ditch (drainageway) exists on north side of overburden stockpile shown above. Some vegetation has grown on overburden material slope above ditch.				



NMED/SWQB Official Photograph Log Photo # 9			
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1237 hours	
City/County: North of Ojo Caliente / Taos County  State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Looking west, disturbed (not stabilized) soils of overburden.			



NMED/SWQB Official Photograph Log Photo # 10			
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1237 hours	
City/County: North of Ojo Caliente / Taos County  State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Looking west, disturbed (not stabilized) soils of overburden.			



NMED/SWQB Official Photograph Log Photo # 11			
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1242 hours	
City/County: North of Ojo Caliente / Taos County  State: New Mexico			
Location: Ojo Caliente Mineral Springs Resort & Spa			
Subject: Further west of the location shown in Photo #8, the ditch (drainageway) continues toward Rio Ojo Caliente.			



NMED/SWQB Official Photograph Log Photo # 12				
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1242 hours		
City/County: North of Ojo Caliente / Taos County		State: New Mexico		
Location: Ojo Caliente Mineral Springs Resort & Spa				
Subject: Culvert outlet connecting ditch to channel at Rio Ojo Caliente.				



NMED/SWQB Official Photograph Log Photo # 13				
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1243 hours		
City/County: North of Ojo Caliente / Taos County		State: New Mexico		
Location: Ojo Caliente Mineral Springs Resort & Spa				
Subject: Arrow points to channel shown in previous photo at Rio Ojo Caliente.				



NMED/SWQB Official Photograph Log Photo # 14				
Photographer: Erin Trujillo	Date: 05/25/2017	Time: 1314 hours		
City/County: North of Ojo Caliente / Taos County		State: New Mexico		
Location: Ojo Caliente Mineral Springs Resort & Spa				
Subject: Arrow points to material from construction support area associated with pond excavation and path/road improvements placed above river bank to control or minimize flooding at resort's RV park.				



# **Attachment A**

# Federal Clean Water Act (CWA) and Permit Requirements for Storm Water Discharges from Construction Activities

Stormwater discharges from construction and associated support activities can significantly impact water quality. As stormwater flows over a construction site, it can pick up pollutants like sediment, debris, and chemicals and transport them to nearby storm sewer systems or directly into rivers or lakes.

Section 301 (a) of the Federal Water Pollution Control Act states that "Except as in compliance with this section and sections 302, 306, 307, 318, 402 and 404 of this Act, the discharge of any pollutant by any person shall be unlawful." Federal regulations in 40 CFR Part 122.21(a) Duty to apply (1) states: "Any person who discharges or proposes to discharge pollutants...must submit a complete application to the Director in accordance with this section and part 124 of this chapter."

Large construction activity is defined in 40 CFR Part 122.26(b)(14)(x), as follows: "Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more."

Beginning on March 10, 2003, storm water discharges associated with small construction activity became regulated according to 40 CFR Part 122.26(b)(15)(i) for "[c]onstruction activities including clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre and less than five acres."

The U.S. Environmental Protection Agency (USEPA) requires National Pollutant Discharge Elimination System (NPDES) permit coverage for industrial storm water discharges from construction (such as clearing, grading, excavating, and stockpiling) that disturb (or re-disturb) one or more acres, and discharges from smaller sites that are part of a larger common plan of development or sale per 40 CFR Part 122.26. In New Mexico, USEPA administers the NPDES program and is the permitting authority. Operators of regulated construction and associated construction support activity are generally permitted under USEPA's Construction General Permit (CGP).

Examples of construction support activities include concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas. Stormwater discharges from construction support activities may also be authorized under the 2017 CGP provided that appropriate stormwater controls are designed, installed, and maintained and "i. The support activity is directly related to the construction site required to have permit coverage for stormwater discharges; ii. The support activity is not a commercial operation, nor does it serve multiple unrelated construction sites; iii. The support activity does not continue to operate beyond the completion of the construction activity at the site it supports; and iv. Stormwater controls are implemented in accordance with Part 2 and Part 3 for discharges from the support activity areas."

All "Operators" require permit coverage from the "commencement of construction activities" until "final stabilization" (see definitions in USEPA's CGP). Often, at least two parties will require permit coverage. In general, an operator will need CGP coverage of a regulated construction activity if the operator is responsible either for construction plans and specifications, including modifications (e.g., owner or developer) or daily site activities necessary to ensure compliance with the permit (e.g., general contractor). Subcontractors generally are not considered operators for the purposes of the permit.

USEPA's CGP requires compliance with effluent limits and other permit requirements, including the development of a Stormwater Pollution Prevention Plan (SWPPP) and appropriate Best Management Practices (BMPs) be installed and maintained both during construction and after construction to prevent, to the extent practicable, pollutants (primarily sediment, oil & grease and construction materials from the

construction site) in storm water runoff. This permit also requires that permanent stabilization measures (revegetation, paving, etc.) and permanent storm water management measures (storm water detention/retention structures, velocity dissipation devices, etc.) be implemented post construction to minimize, in the long term, pollutants in storm water runoff from entering these waters. Additional conditions applicable to specific states, Indian country lands, or territories is in Part 9 of the CGP.

Operators of certain small construction activity (disturbance of one to five acres) may be waived from permit requirements under limited circumstances. To be eligible for this waiver, operators meet the requirements and certify to EPA that they are eligible. Waivers are only available to stormwater discharges associated with small construction activities (i.e., 1-5 acres). More information on waivers is provided in Appendix C of the 2017 CGP.

USEPA NPDES permits are effective for five years and may be administratively continued until the next permit is reissued. Previous and expired permits include the 2003 CGP effective July 1, 2003 (as modified effective January 21, 2005); 2008 CGP effective June 30, 2008; 2012 CGP effective February 16, 2012. The current 2017 CGP was re-issued January 11, 2017 effective February 16, 2017. Each permit has deadlines for submitting applications or Notice of Intents (NOI) for permit coverage. If you intend to seek coverage under EPA's 2017 CGP, you must first develop a site specific SWPPP then submit a NOI certifying that you meet the permit's eligibility conditions and will comply with the permit's requirements. using the NPDES eReporting Tool for the CGP (NeT-CGP). Waivers are also submitted through NeT-CGP.

More information on the CGP is available from tabs at USEPA's web site <a href="https://www.epa.gov/npdes/stormwater-discharges-construction-activities">https://www.epa.gov/npdes/stormwater-discharges-construction-activities</a>.

# Attachment B – 2008 CGP NOIs

This Form Replaces Form 3510-9 (8-98)
Refer to the Following Pages for Instructions

Form Approved OMB Nos. 2040-0188 and 2040-0211

NPDES Form



United States Environmental Protection Agency Washington, DC 20460

# Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

Submission of this Notice of Intent (NOI) constitutes notice that the party identified in Section II of this form requests authorization to discharge pursuant to the NPDES Construction General Permit (CGP) permit number identified in Section I of this form. Submission of this NOI also constitutes notice that the party identified in Section II of this form meets the eligibility requirements of the CGP for the project identified in Section III of this form. Permit coverage is required prior to commencement of construction activity until you are eligible to terminate coverage as detailed in the CGP. To obtain authorization, you must submit a complete and accurate NOI form. Refer to the instructions at the end of this form.

I. Permit Number
NMR10HB96
II. Operator Information
Name: OJO CALIENTE HOLDINGS, INC.
IRS Employer Identification Number (EIN):
Mailing Address:
Street: PO BOX 68 50 LOS BANOS
City: OJO CALIENTE
Phone: _
E-mail (optional): ANDY@OJOSPA.COM
III. Project/Site Information
Project/Site Name: OJO CALIENTE MINERAL SPRINGS
Project Street/Location: 50 LOS BANOS
City: OJO CALIENTE
County or similar government subdivision: $ extstyle  e$
Latitude/Longitude (Use one of three possible formats, and specify method)
Latitude 1. 36 ° 18′ 50′ N (degrees, minutes, seconds) 2 ° ′ N (degrees, minutes, decimal) 3 ° N (decimal)  Longitude 1. 106 ° 02′ 34′ W (degrees, minutes, seconds) 2 ° ′ W (degrees, minutes, decimal) 3 ° N (decimal)
Method: ☐ U.S.G.S. topographic map ☐ EPA web site ✔ GPS ☐ Other:  • If you used a U.S.G.S. topographic map, what was the scale:
Project Located in Indian country? Yes V No If so, name of Reservation or if not part of a Reservation, put "Not Applicable":
Estimated Project Start Date:
Estimated Area to be Disturbed (to the nearest quarter acre): $\boxed{}$ $$

IV OWDDD Information
IV. SWPPP Information
Has the SWPPP been prepared in advance of filing this NOI?  Yes  No
Location of SWPPP for viewing: Address in Section II Address in Section III Other:  SWPPP Street: SWPPP Street:
City:
SWPPP Contact Information (if different than that in Section II):  Name: ANDREW SCOTT
Phone:  5 0 5  -  4 9 0  -  9 4 3 4  Fax (optional):           -
E-mail (optional): ANDY@OJOSPA . COM
V. Discharge Information
Identify the name(s) of waterbodies to which you discharge. RIO OJO CALIENTE
Is this discharge consistent with the assumptions and requirements of applicable EPA approved or established TMDL(s)?  Yes No
VI. Endangered Species Information
Under which criterion of the permit have you satisfied your ESA eligibility obligations?  A B C D F
If you select criterion F, provide permit tracking number of operator under which you are certifying eligibility:
VII. Certification Information
I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
Print Name: ANDREW SCOTT
Print Title:
Signature: ANDREW SCOTT
Date: <u>03/19/2011</u>

#### Instructions for Completing EPA Form 3510-9

# Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

NPDES Form This Form Replaces Form 3510-9 (8/98)

Form Approved OMB Nos. 2040-0188 and 2040-0211

#### Who Must File an NOI Form

Under the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et.seq.; the Act), federal law prohibits storm water discharges from certain construction activities to waters of the U.S. unless that discharge is covered under a National Pollutant Discharge Elimination System (NPDES) Permit. Operator(s) of construction sites where one or more acres are disturbed, smaller sites that are part of a larger common plan of development or sale where there is a cumulative disturbance of at least one acre, or any other site specifically designated by the Director, must submit an NOI to obtain coverage under an NPDES general permit. Each person, firm, public organization, or any other entity that meets either of the following criteria must file this form: (1) they have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) they have day-to-day operational control of those activities at the project necessary to ensure compliance with SWPPP requirements or other permit conditions. If you have questions about whether you need an NPDES storm water permit, or if you need information to determine whether EPA or your state agency is the permitting authority, refer to www.epa.gov/npdes/stormwater/cgp or telephone the Storm Water Notice Processing Center at (866) 352-7755.

#### Where to File NOI Form

See the applicable CGP for information on where to send your completed NOI form.

#### Completing the Form

Obtain and read a copy of the appropriate EPA Storm Water Construction General Permit for your area. To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, refer to <a href="https://www.epa.gov/npdes/stormwater/cgp">www.epa.gov/npdes/stormwater/cgp</a> or telephone the Storm Water Notice Processing Center at (866) 352-7755. Please submit original document with signature in ink - do not send a photocopied signature.

#### Section I. Permit Number

Provide the number of the permit under which you are applying for coverage (see Appendix B of the general permit for the list of eligible permit numbers).

#### **Section II. Operator Information**

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this

application. An operator of a project is a legal entity that controls at least a portion of site operations and is not necessarily the site manager. Provide the employer identification number (EIN from the Internal Revenue Service; IRS), also commonly referred to as your taxpayer ID. If the applicant does not have an EIN enter "NA" in the space provided. Also provide the operator's mailing address, telephone number, fax number (optional) and e-mail address (if you would like to be notified via e-mail of NOI approval when available). Correspondence for the NOI will be sent to this address.

#### Section III. Project/Site Information

Enter the official or legal name and complete street address, including city, state, zip code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for permit coverage to be granted.

The applicant must also provide the latitude and longitude of the facility either in degrees, minutes, seconds; degrees, minutes, decimal; or decimal format. The latitude and longitude of your facility can be determined in several different ways, including through the use of global positioning system (GPS) receivers, U.S. Geological Survey (U.S.G.S.) topographic or quadrangle maps, and EPA's web-based siting tools, among others. Refer www.epa.gov/npdes/stormwater/cgp for further guidance on the use of these methodologies. For consistency, EPA requests that measurements be taken from the approximate center of the construction site. Applicants must specify which method they used to determine latitude and longitude. If a U.S.G.S. topographic map is used, applicants are required to specify the scale of the map used.

Indicate whether the project is in Indian country, and if so, provide the name of the Reservation. If the project is in Indian Country Lands that are not part of a Reservation, indicate "not applicable" in the space provided.

Enter the estimated construction start and completion dates using four digits for the year (i.e., 05/27/1998). Enter the estimated area to be disturbed including but not limited to: grubbing, excavation, grading, and utilities and infrastructure installation. Indicate to the nearest quarter acre. Note: 1 acre = 43,560 sq. ft.

#### Section IV. SWPPP Information

Indicate whether or not the SWPPP was prepared in advance of filing the NOI form. Check the appropriate box for the location where the SWPPP may be viewed. Provide the name,

#### Instructions for Completing EPA Form 3510-9

# Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

NPDES Form This Form

This Form Replaces Form 3510-9 (8/98)

Form Approved OMB Nos. 2040-0188 and 2040-0211

fax number (optional), and e-mail address (optional) of the contact person if different than that listed in Section II of the NOI form.

#### Section V. Discharge Information

Enter the name(s) of receiving waterbodies to which the project's storm water will discharge. These should be the first bodies of water that the discharge will reach. (Note: If you discharge to more than one waterbody, please indicate all such waters in the space provided and attach a separate sheet if necessary.) For example, if the discharge leaves your site and travels through a roadside swale or a storm sewer and then enters a stream that flows to a river, the stream would be the receiving waterbody. Waters of the U.S. include lakes, streams, creeks, rivers, wetlands, impoundments, estuaries, bays, oceans, and other surface bodies of water within the confines of the U.S. and U.S. coastal waters. Waters of the U.S. do not include man-made structures created solely for the purpose of wastewater treatment. U.S. Geological Survey topographical maps may be used to make this determination. If the map does not provide a name, use a format such as "unnamed tributary to Cross Creek". If you discharge into a municipal separate storm sewer system (MS4), you must identify the waterbody into which that portion of the storm sewer discharges. That information should be readily available from the operator of the MS4.

Indicate whether your storm water discharges from construction activities will be consistent with the assumptions and requirements of applicable EPA approved or established TMDL(s). To answer this question, refer to www.epa.gov/npdes/stormwater/cgp for state- and regional-specific TMDL information related to the construction general permit. You may also have to contact your EPA regional office or state agency. If there are no applicable TMDLs or no related requirements, please check the "yes" box in the NOI form.

# Section VI. Endangered Species Information

Indicate for which criterion (i.e., A, B, C, D, E, or F) of the permit the applicant is eligible with regard to protection of federally listed endangered and threatened species, and designated critical habitat. See Part 1.3.C.6 and Appendix C of the permit. If you select criterion F, provide the permit tracking number of the operator under which you are certifying eligibility. The permit tracking number is the number assigned to the operator by the Storm Water Notice Processing Center after EPA acceptance of a complete NOI.

#### **Section VII. Certification Information**

All applications, including NOIs, must be signed as follows: *For a corporation*: By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:

(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing. An unsigned or undated NOI form will not be considered eligible for permit coverage.

### Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 3.7 hours. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch 2136, U.S. Environmental Protection, Agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB control number on any correspondence. Do not send the completed form to this address.

# 2008 Construction General Permit **Notice of Intent Details**

Details for Permit: NMR10HB50

#### **General Information**

Date Submitted: N/A Current Status: Expired

#### **Operator Information**

Name: Ojo Caliente Holdings, Inc.

Street: po box 68

Street 2: 50 Los Banos

City: Ojo Caliente

State: NM

Zip Code: 87549

Phone Number: (505) 583-3211

Email: andy@ojospa.com

IRS EIN: N/A

#### Project / Facility Information

Project / Site Name: OCMS

Street: 50 Los Banos

City: Ojo Caliente

Project site / facility County: Taos

State: NM

Zip Code: 87549

Latitude / Longitude Type: Decimals

Latitude / Longitude Source: EPA Web Site

Latitude: 36,3404

Longitude: 106,0019

Is facility/project located on Indian No

Land?

Reservation Name: N/A

## Project/Site Information

Estimated Start Date: 03/09/2011

Estimated Completion Date: 03/09/2011

Estimated Area to be Disturbed (to -1

the nearest quarter acre):

# **SWPPP Information**

SWPPP Contact Name:

Street:

City: N/A

State: N/A

Zip Code: N/A

Phone: N/A

Email: N/A

### Discharge Information

Receiving water(s):

Is this discharge consistent with the N/A assumptions and requirements of applicable EPA approved or established TMDL(s)?

#### **Endangered Species Information**

I have satisfied permit eligibility with regard to protection of endangered species through the indicated section of Part I.B.3.e(2) of the permit under criterion .

#### Certification

Certified by: Andrew Scott

Date Certified: N/A

Title: N/A

Email: andy@ojospa.com

### Termination

Termination Certified By:

Date Certified: N/A

Title: N/A

# **Correspondence Documents**

Q

No data found.